

## Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-07 NSAE-00 FAA-00 L-02 IO-10 /041 W

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R 111149Z FEB 75

FM AMEMBASSY LONDON

TO SECSTATE WASHDC 8132

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E.O. 11652: N/A

TAGS: EAIR, UK

SUBJECT: CIVAIR - CAA DECISION ON LAKER SKYTRAIN LICENSE

REF: LONDON 1946

L. THE UK CIVIL AVIATION AUTHORITY DECISION WHICH GAVE QUALIFIED CONFIRMATION TO THE LAKER SKYTRAIN LICENSE (REFTEL) ALSO CONTAINS SOME OF MOST OUTSPOKEN PUBLIC CRITICISM OF US AVIATION AUTHORITIES THAT WE HAVE SEEN. CRITICISM IS DIRECTED TOWARD WHAT UK REGARDS AS USG FAILURE TO LIVE UP TO TERMS OF BILATERAL AIR TRANSPORT AGREEMENT. MOST OF THE CRITICISM IS CONTAINED IN PARA 43 OF CAA DECISION (COPY POUCHED EB/OA) WHICH READS AS FOLLOWS: "WE ARE CONSCIOUS ALSO THAT THE ONLY REASON WHY "SKYTRAIN" SERVICES HAVE NOT ALREADY BEEN IN OPERATION FOR THE PAST TWO YEARS IS THAT THE UNITED STATES AUTHORITIES

HAVE ENGAGED IN UNCONSCIONABLE PROCRASTINATION. HAVING EXHAUSTED LONG SINCE THE PROCEDURAL OPPORTUNITIES FOR INACTION THAT THE CIVIL AERONAUTICS BOARD HAS AS ITS DISPOSAL, THE UNITED STATES AUTHORITIES HAVE SOUGHT FINAL REFUGE IN SILENCE. THIS IS IN OUR VIEW CONTRARY TO THE LETTER AND, MOST CERTAINLY, TO THE SPIRIT OF THE AGREEMENT BETWEEN OUR TWO COUNTRIES, AND IGNORES THE REPEATED REPRESENTATIONS MADE BY AND ON BEHALF OF HER MAJESTY'S GOVERNMENT AND THIS AUTHORITY. WE SEE NO GOOD REASON WHY LAKER AIRWAYS SHOULD BE EXPECTED TO SUFFER A LOSS OF LIMITED OFFICIAL USE

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UP TO 7 MILLION POUNDS BECAUSE THE UNITED STATES AUTH-

ORITIES EVADE THEIR SOLEMN TREATY OBLIGATIONS. IF THE UNITED STATES AUTHORITIES HAD ACTED WITH DUE DILIGENCE, "SKYTRAIN" WOULD HAVE BEEN LAUNCHED ON AN EXPANDING MARKET AND WE SHOULD HAVE KNOWN BY NOW WHETHER THE EXPERIMENT HAD SUCCEEDED AND IF IT HAD, AS WE BELIEVE IT WOULD HAVE DONE, THE ADDITIONAL MARKET WOULD BY NOW HAVE BEEN OPENED UP TO THE BENEFIT OF ALL CONCERNED."

2. WE SPOKE TO BROWN, DEPT. OF TRADE, ABOUT CAA DECISION

ON FEBRUARY 10. BROWN SAID DOT HAD NOT BEEN GIVEN THE OPPORTUNITY TO REVIEW CAA DECISION BEFORE IT MADE PUBLIC AND CONSEQUENTLY DECISION AND MANNER IN WHICH IT EXPRESSED WAS THAT OF SEMI-AUTONOMOUS REGULATORY AGENCY AND NOT NECESSARILY THAT OF HMG. BROWN SAID HE DID NOT BELIEVE HMG WOULD NECESSARILY HAVE DIFFERED IN GENERAL THRUST OF CAA REMARKS CONCERNING US AVIATION AUTHORITIES BUT WOULD CERTAINLY HAVE EXPRESSED THOSE VIEWS IN LESS INTEMPERATE FASHION.

3. LAKER, IN PRESS INTERVIEWS, IS QUOTED AS SAYING THAT HE DOES NOT CONSIDER HIMSELF BOUND BY CAA RECOMMENDATION TO DELAY SKYTRAIN APPLICATION FOR AT LEAST A YEAR. HOWEVER, BROWN REPORTS THAT LAKER TOLD HIM THAT HE HAS NO INTENTION OF IMPLEMENTING SKYTRAIN AGAINST EXPRESSED RECOMMENDATIONS OF CAA.

4. BRITISH AIRWAYS AND DAN-AIR HAVE 21 DAYS FROM FEBRUARY 7 IN WHICH TO APPEAL TO TRADE SECRETARY SHORE AGAINST CAA DECISION. THUS FAR NEITHER AIRLINE HAS

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INDICATED WHETHER IT WILL DO SO. ABOUT TEN DAYS BEFORE CAA DECISION WAS ANNOUNCED WE DISCUSSED SITUATION WITH COCHRANE, BA, WHO CLAIMS TO HAVE BEEN INITIATOR OF MOVE WITHIN BA TO CHALLENGE SKYTRAIN LICENSE. COCHRANE WAS PREDICTING THEN THAT CAA DECISION WOULD GO AGAINST BA AND IN FAVOR OF LAKER AND HE SAID AT THAT TIME HE DID NOT THINK BA WOULD APPEAL UNFAVORABLE DECISION. WE EXPRESSED SURPRISE AT THIS SINCE WE SAID WE HAD ASSUMED THAT WHICHEVER WAY DECISION WENT THE LOSING PARTY WOULD APPEAL IT. WE SAID WE ALSO ASSUMED THAT AN APPEAL WOULD NOT BE ACTED UPON UNTIL UK AVIATION POLICY REVIEW COMPLETED AT END OF MARCH. COCHRANE SAID IF IT APPEARED POLICY REVIEW WOULD MEET ITS END OF MARCH DEADLINE, BA WOULD CONSIDER AN APPEAL BUT HE THOUGHT REVIEW WOULD NOT BE FINISHED UNTIL AUTUMN AND UNTIL REVIEW IS COMPLETED TRADE SECRETARY WOULD HAVE NO BASIS UPON WHICH TO REVERSE CAA DECISION. WE HAVE SINCE LEARNED THAT AVIATION POLICY REVIEW SHOULD NOW BE COMPLETED IN MAY. WE DO NOT KNOW, HOWEVER, WHETHER THIS COMPLETION DATE WOULD PROMPT BA TO RECONSIDER QUESTION OF APPEALING CAA DECISION.

5. COMMENT. IF APPEAL OF CAA DECISION IS NOT MADE BY END OF FEBRUARY, USG CAN ANTICIPATE THAT SHORTLY THEREAFTER THERE WILL BE RENEWED DIPLOMATIC PRESSURES FROM HMG TO BRING ABOUT US ISSUANCE OF STALLED SKYTRAIN PERMIT. IF THESE PRESSURES FAIL, WE CANNOT RULE OUT LIMITED OFFICIAL USE

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POSSIBILITY THAT HMG WILL CONSIDER MEASURES AGAINST US CARRIERS IN RETALIATION.

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
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